

Comment Set 33



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board San Francisco Bay Region

Internet Address: <http://www.swrcb.ca.gov>
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 • FAX (510) 622-2460



Gray Davis
Governor

July 30, 2003
File No. 2119.1045 (pg)

Judy Brown
Public Land Management Specialist
State Lands Commission
Division of Land Management
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

**SUBJECT: COMMENTS ON THE JUNE 2003 DRAFT ENVIRONMENTAL IMPACT
REPORT FOR SANTA FE PACIFIC PARTNERS, L.P.'s (SFPP) CONCORD
TO SACRAMENTO PETROLEUM PRODUCTS PIPELINE PROJECT.**

Dear Ms. Brown,

Thank you for providing Regional Water Quality Control Board (RWQCB) staff the opportunity to comment on the subject document. While we generally support the proposed project, we are particularly concerned about environmental impacts that could result from routing the proposed pipeline through Peyton Marsh and the Rhodia, Inc. Facility (Segment 1, Concord to the Benicia Bridge), and encourage consideration of an alternate alignment in this vicinity. The following comments (Nos. 1-18) provide written clarification and expansion of the items discussed at the July 24, 2003 meeting of the Peyton Slough Advisory Committee.

1) Evaluate Alternate Routes to Avoid Peyton Marsh

An analysis of two potential routes for the proposed pipeline is provided in the June 2003 Draft Environmental Impact Report (EIR): (1) Proposed Route, and (2) Existing Pipeline ROW Alternative, with the Proposed Route forwarded as the preferred option. Segment 1 of the Proposed Route includes Phase 1 (evaluated in the Draft EIR) and Phase 2 (to be evaluated in a future EIR).

These proposed Phases would cause potentially significant impacts to Peyton Marsh, a wetland area that is scheduled to undergo remediation and mitigation of a major San Francisco Bay Area Toxic Hot Spot in Spring 2004, pursuant to RWQCB Site Cleanup Requirements (SCR) Order No. 01-097 issued to Rhodia, Inc. (Rhodia). Rhodia's Remediation Plan includes constructing an engineered cap on the existing Peyton Slough to contain the contaminated sediments in-place, and excavating a new slough alignment further east (see attached Fig. 1).

One of the rationales provided in the pipeline Draft EIR for selecting the Proposed Route rather than the Existing Pipeline ROW is to reduce impacts to wetland habitats, however no evaluation is presented to consider alternate routes to avoid Peyton Marsh. There is a tremendous amount of effort being put forth by several permitting agencies and involved parties to restore Peyton Marsh to a viable wetland that can support a number of

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threatened and endangered species. It is critical that an alternate route, such as Segment 1 of Existing Pipeline ROW Alternative route from Concord to the Benicia Bridge, be considered to avoid impacts to Peyton Marsh.

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2) **Figure B-6 Correction – New Alignment of Peyton Slough**

The proposed new alignment of Peyton Slough is not depicted accurately on Figure B-6 (see attached Figs. 1, 2, and 3). In order to assess potential environmental impacts, this figure must be corrected.

33-2

3) **Insufficient Detail Provided to Assess Ability of the Peyton Slough Remediation Project and SFPP Pipeline Project to Occur Concurrently**

In the Draft EIR, it is stated that Phase 1 can occur concurrently with Rhodia's remediation project by implementing horizontal direction drilling (HDD). However, insufficient detail is provided to substantiate this conclusion.

33-3

Details Needed to Evaluate Ability of Projects to Occur Concurrently

- a) To fully evaluate potential impacts to wetlands and waters, Jurisdictional Delineation Map 2240-W-502 must show the location of the pending new alignment for Peyton Slough.
- b) Jurisdictional Delineation Map 2240-W-502 shows the work areas needed for the pipeline entrance and exit areas. The entrance point work area appears to be located on wetland habitat and is within approximately 75-feet of the slough cap that will be constructed over the existing contaminants. RWQCB staff recommend evaluating alternate entrance points further from the wetland habitat.
- c) Based on soil conditions in wetlands, the pipeline entrance point would be particularly susceptible to frac-out, or inadvertent return of drilling lubricant. Such an event would expel potentially contaminated sediment onto the marsh plain, and should be addressed in the EIR for the pipeline project.
- d) The HDD pipeline exit point appears to be located primarily on Zinc Hill, an area of potentially steep topography. A description of how this area will be prepared to accommodate workspace must be included.
- e) We assume access roads would be required for the proposed HDD in the Peyton Marsh area, however access roads to the work areas are not depicted on any of the included figures. This is of particular concern as the Peyton Marsh area will be undergoing remediation, and cumulative impacts would need to be addressed and mitigated for.
- f) A description of how an electrical source would be supplied for the HDD in Peyton Marsh should be included in the pipeline project EIR.

4) **Telemetry to Valve No. 2 (MOV)**

It is unclear how telemetry would be routed to the proposed 20-inch valve No.2 (MOV) Launcher/Receiver area (Jurisdictional Delineation Map 2240-W-502).

33-4

5) **Subsurface Cinder Bodies –Potential Impacts to Pipeline and to Caps over Cinder Bodies**

The Phase 1 proposed pipeline would be trenched through segments of the Paleochannel (parts of which have been filled with cinders) and two capped subsurface cinder bodies on the Rhodia property (Fig.2). Under RWQCB Waste Discharge Requirements (WRD)

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Order No. 97-121, Rhodia maintains a groundwater extraction system to collect and treat metals-contaminated acidic groundwater. The EIR for the proposed pipeline project must (1) address the possibility that contaminated sediment and groundwater would be encountered in this area, (2) evaluate the potential for pipe corrosion where the pipeline comes into contact with the cinders and low pH groundwater, and (3) evaluate the potential impacts that would result from breaching the caps that have been placed over the cinder bodies.

33-5

6) **Potential of Contaminant Migration Along Pipeline**

The proposed pipeline, as described in Phase 1, would run laterally west of the Peyton Slough Project engineered cap (Fig.2). Along this route, the pipeline would intersect the Paleochannel (parts of which have been filled with cinders), pass through an area of known groundwater discharge to the existing slough, and cross two subsurface cinder bodies (described in Comment 5). RWQCB staff are therefore concerned that the proposed pipeline could provide a preferential pathway for the migration of contaminated groundwater. An analysis of the potential for contaminant migration must be included in the project EIR.

33-6

7) **Contaminated Sediments in Peyton Slough and on Rhodia's Property**

The Phase 1 proposed route would traverse an area of contaminated sediment/soil and groundwater (see Comment 5). Along some areas of the current Peyton Slough alignment, contaminated sediments occur at depths greater than 10-feet below ground surface. Sections of the Draft EIR pertaining to Contaminated Sites along the ROW and Environmental Contamination and Hazardous Materials must include a more detailed discussion of the contamination that exists in the vicinity of Peyton Slough and on Rhodia's property. In addition, it is unclear why Peyton Slough and the Rhodia property are not listed in Table D.6-1 Hazardous Waste Sites Potentially Impacting Segment 1.

33-7

8) **Depth of Pipeline in Peyton Marsh and Rhodia Property**

Within the discussion of Phase 1, it is not apparent how deep the HDD would place the pipeline under Peyton Marsh and Peyton Slough, or how deep the pipeline will be buried as it runs along the west side of Peyton Marsh. This information must be provided to ensure future dredging activities for flood or mosquito control do not pose a threat to the pipeline integrity, and to evaluate the potential for the migration of contaminated shallow groundwater along the pipeline. Detailed horizontal and vertical alignments at water and sensitive habitat crossings would provide this information (see comment 13).

33-8

9) **Cumulative Impacts**

The Peyton Slough Remediation Project is not listed in Table E-1, Cumulative Scenario – Approved and Pending Projects, and is not included in the discussion of cumulative impacts. However, there is a high probability of spatial and temporal overlap between Rhodia's Peyton Slough Remediation Project and SFPP's Concord to Sacramento Pipeline project. Therefore, cumulative impacts to Peyton Marsh and Peyton Slough must be evaluated in the Draft EIR, and appropriate mitigation must be proposed.

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| <p>10) <u>Potential for Petroleum Releases at Pipeline Connections near Peyton Marsh</u>
The proposed route for Phase 1, along the west side of Peyton Marsh, includes two areas of potential pipeline weakness. The first occurs where the new 20-inch diameter pipe would be connected to a new 14-inch diameter pipe, restricting flow. The second is where the new 14-inch diameter pipe would be connected to the existing, approximately 35-year old, 14-inch diameter pipe that crosses the Carquinez Strait. There does not appear to be an evaluation of the potential for a release at these pipeline connections, and in the event of a release, what the impacts would be to Peyton Marsh, Carquinez Strait, and McNabney Marsh.</p> | <p>33-10</p> |
| <p>11) <u>Need for Figure Depicting Pipeline Easements</u>
A figure depicting the width of the proposed pipeline easement for the various alternatives should be included to aid in the comparison of the potential impacts of the alternatives under consideration.</p> | <p>33-11</p> |
| <p>12) <u>Need for Project Timetable/Gant Chart</u>
A timetable or gant chart should be included to better outline when construction and remediation would occur, and to evaluate potential cumulative impacts with other area projects.</p> | <p>33-12</p> |
| <p>13) <u>Need for Detailed Horizontal and Vertical Alignment Maps at Water and Sensitive Habitat Crossings</u>
The figures presented in Appendix 1E, Jurisdictional Delineation Maps, provide a general overview of the horizontal alignment of the proposed route. However, to fully evaluate the potential impacts to waters and sensitive habitats, detailed horizontal and vertical alignment maps of all water and sensitive habitat crossings must be provided. These maps should clearly indicate the method proposed for crossing and identify the location of all potential impacts, such as proposed access roads and plans for grading work areas. (also see Comment 14)</p> | <p>33-13</p> |
| <p>14) <u>Full Evaluation of Impacts at Water and Sensitive Area Crossings</u>
It is unclear whether impacts from access roads, noise, truck traffic, air emissions, etc. are accounted for in the water and sensitive area crossings. (see Comment 15)</p> | <p>33-14</p> |
| <p>15) <u>Need for Compensatory Mitigation</u>
The proposed mitigation must take into account temporal loss of wetland functionality, including anticipated disruption of wetland habitat from operation and maintenance. The mitigation proposed in the Draft EIR appears to include only avoidance and minimization measures, and does not adequately address Phase 1 or Phase 2 impacts.</p> | <p>33-15</p> |
| <p>16) <u>Mitigation Monitoring Program – Hydrology and Water Quality</u>
Several of the mitigation measures outlined on Table F-7 <u>Mitigation Monitoring Program- Hydrology and Water Quality</u>, for which the RWQCB is not listed as a Responsible Agency, will require permits from the RWQCB.</p> | <p>33-16</p> |

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17) Phase 2 Impacts and Legality of Segmenting an Analysis of Phase 2 Impacts

A contingent of many permitting agencies and interested parties has put forth a tremendous amount of effort for over two years to reach a consensus on the Peyton Slough Remediation Project. The plans depicted on Figure B-6 for Phase 2 would undermine the efforts of the Peyton Slough Remediation Project, and would re-degrade Peyton Marsh and Peyton Slough just as that wetland habitat is anticipated to reach full functionality (approximately 10 years post construction) (Fig.3).

- a) RWQCB staff are extremely concerned that the SFPP Sacramento to Concord pipeline project is proceeding in a manner to adopt Phase 1 without seriously considering alternatives to the project to avoid significant impacts to Peyton Marsh. As a matter of law, the EIR must describe a reasonable range of alternatives to the proposed project which are capable of avoiding or substantially lessening any significant impacts of the project, even if these alternatives would impede to some degree the attainment of the project objectives or are more costly (14 Cal. Code of Regs. Section 15126.6). Moreover, it appears that forging ahead with the proposed project necessarily dictates what Phase 2 of the project would be; thus, it is even more imperative that 1) Phase 2 be considered as part of the project in the EIR and 2) alternatives to the entirety of the proposed project (Phases 1 and 2) be considered.
- b) While SFPP would be required to mitigate for any impacts to Peyton Marsh if Phase 2 is implemented, RWQCB staff are strongly opposed to re-degrading a wetland habitat that has just undergone extensive remediation.
- c) RWQCB staff are opposed to placing a petroleum pipeline through a sensitive wetland habitat, given the potential for petroleum leaks and need for routine maintenance that would be disruptive.
- d) The proposed Phase 2 Work Area in the northern portion of Peyton Marsh overlays areas of the cap and dredge spoil piles, both of which will be remediated to viable wetland habitat. In addition, the engineered cap was not designed to accommodate significant surface pressure. Potential impacts to the wetland and to the cap integrity must be evaluated.
- e) The proposed Pipe Stringing Area is positioned over a large segment of the engineered cap, posing the same issues described above in Comment 17(d). The southern portion of the Pipe Stringing Area is a planned pickleweed restoration area that is intended to support the federally endangered salt marsh harvest mouse.
- f) It is unclear whether the Pipe Stringing Area is sufficient to accommodate the entire length of pipeline required to cross the Carquinez Strait. It is stated in the Draft EIR that the Carquinez Strait is a 6,925-foot crossing, yet the Pipe Stringing Area is stated to be 6,200-feet in length.
- g) We assume a work area and/or trenched area would be needed in the southern end of Peyton Marsh in addition to that shown in the northern portion, yet such an area is not depicted.
- h) We assume access roads through the wetland would be required to reach the Work Area(s) and Pipeline Stringing Area, yet these key features are not depicted on figures nor included in the discussion of Phase 2.
- i) Frac-out would be an issue for crossing the Carquinez Strait via HDD, and could pose serious threats to the remediated Peyton Marsh.

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- j) It is our understanding that Phase 2 was included in this Draft EIR for full disclosure purposes, with a later EIR planned pending HDD technology and product demand. However, it is clear that the Phase 1 alignment was selected with the intension of implementing Phase 2 in the future. So while the Board does not object to any future more focused EIR on Phase 2, it still holds that since Phase 2 is part and parcel of Phase 1 and is reasonably foreseeable, the current EIR MUST consider Phase 2 as part of the project. See 14 Cal. Code of Regs. Section 15063(a)(1)(an agency must consider "all phases of project planning, implementation and operation.") and Section 15378(c)(project encompasses entire activity, and not each separate approval); see also Laurel Heights Improvement Association of San Francisco, Inc. v. Regents of the University of California (1988) 47 Cal.3d 376, 399 ("an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."). While all the specific details of Phase 2 are yet unknown, the current EIR must nevertheless consider Phase 2 as part of the project in order to avoid unlawful segmentation of the project, as well as all feasible alternatives to the project (i.e., in its entirety, not just segments).

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18) Notification of Distribution of Future Project Documents

The RWQCB does not have a mechanism by which CEQA documents mailed from the State Clearinghouse can be directed to specific staff. This can result in a delay of receipt to the interested staff member if s/he is not notified of the distribution by the lead agency. We therefore request that subsequent documents related to the Concord to Sacramento Pipeline be sent to:

Priya Ganguli
SFB RWQCB
1515 Clay Street, Suite 1400
Oakland, CA 94612

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If you have any questions or concerns, please contact Priya Ganguli of my staff at 510-622-2427 [pg@rb2.swrcb.ca.gov].

Sincerely,

Original Signed by:

Terry Seward, Senior WRCE
Groundwater Protection and Waste Containment

cc: See Attached Distribution List

Attachments: Fig.1 Peyton Slough Remediation Project
Fig.2 Phase 1 - SFPP Proposed Pipeline
Fig.3 Phase 2 - SFPP Proposed Pipeline

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